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From: POLITICO Pro Energy
Sent: Mon 4/30/2018 9:45:23 AM
Subject: Morning Energy: Coal ash ponds in the crosshairs — How Trump will go after California's auto GHG authority — Fuels united will never be defeated

By Kelsey Tamborrino | 04/30/2018 05:43 AM EDT

With help from Alex Guillén, Eric Wolff and Anthony Adragna

GREENS GAIN GROUND ON GROUNDWATER: Environmental groups have notched up a pair of big legal wins that could spell trouble for the coal ash ponds that leak toxic pollution into the groundwater that ultimately ends up in rivers and lakes protected by the Clean Water Act. And it could put utilities on the hook for billions of dollars in clean-up costs.

Green groups, led by the Southern Environmental Law Center, have begun suing utilities under the Clean Water Act, Pro's Annie Snider reports. They argue that unlined waste ponds leaking ash that contains arsenic, mercury and lead into groundwater violates the landmark 1972 water law. And while groundwater pollution is largely regulated by states — leaving the Clean Water Act to regulate point sources — environmentalists have successfully argued that any pollution coming from a point source that eventually reaches a federally protected water is a violation of the law, regardless of the path it takes to get there.

"We haven't viewed any of our Clean Water Act claims to be unusual or novel. We consider them to be enforcing just the central provisions of the law," said Frank Holleman, who has led a number of such lawsuits for SELC. Any other reading, Holleman said, would "blow a huge hole in the coverage of the Clean Water Act." Notably, courts have agreed with that sentiment in two major appellate cases, although the pollution at issue in those suits wasn't from coal ash ponds. Read more [here](#).

Reminder: Today marks the deadline for comments to EPA's [proposed](#) changes to its coal ash rule.

Related reading: Environment America Research and Policy Center, U.S. PIRG Education Fund and Frontier Group are issuing a report examining the threat to waterways posed by coal ash ponds. The report, titled "Accidents Waiting to Happen: Coal Ash Ponds Put Our Waterways at Risk," found that in the U.S., at least 14 coal plants with on-site ash ponds are within FEMA 100-year flood zones. Read it [here](#).

IT'S MONDAY! I'm your host Kelsey Tamborrino. Duberstein Group's Dan Meyer was first to guess former Sen. Russell Long was preceded in the Senate by both of his parents. For today: Who was the first president to attend the White House Correspondents Dinner? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](#), [@Morning_Energy](#) and [@POLITICOPro](#).

POLITICO's Ben White is bringing Morning Money to the Milken Institute Global Conference to provide coverage of the day's events and evening happenings. The newsletter will

run April 29 - May 2. [Sign up](#) to keep up with your daily conference coverage.

HOW TRUMP WILL GO AFTER CALIFORNIA'S AUTO GHG AUTHORITY: The Trump administration plans to argue that California does not have the authority to enforce stringent greenhouse gas emissions standards for cars, despite the Obama administration's 2009 waiver, according to a source familiar with a [forthcoming](#) proposed regulation. The draft, which is a National Highway Traffic Safety Administration document but also names EPA, includes eight regulatory options for future CAFE standards. The preferred option would freeze the standards at model year 2020 levels through at least model year 2026 vehicles, erasing some of the biggest climate-related policies of the Obama administration, according to the source.

As part of that freeze, the document goes after California's authority to enforce its own more stringent regulations within its borders and in a dozen other states that follow its rules. The proposal argues that the 1975 law that created NHTSA's CAFE program, the Energy Policy and Conservation Act, preempts the states from creating their own fuel economy standards, and that should include the California GHG standards. The argument has been around for a long time; automakers pushed it before the Obama-era deal setting one national standard, and conservative groups last month [urged](#) EPA to adopt it now. But it's not clear that it could withstand judicial scrutiny. Two federal courts rejected the preemption argument in 2007, noting that GHG and fuel economy standards do overlap but are different. It's not clear whether the Trump administration ultimately will propose or finalize this preferred option, and the plan still must go through White House review.

Their two cents: Mary Nichols, the chair of California's Air Resources Board, took to Twitter on Friday to poke EPA Administrator Scott Pruitt about his Thursday [testimony about negotiations](#) with California on the auto rules. "Hey @EPAScottPruitt, I agree it's important we work together 'diligently & diplomatically' to maintain one national program for #cleanercars so like, call me maybe?" she [tweeted](#), referencing the 2012 Carly Rae Jepsen [earworm](#). (If you need to clear that ditty from your head, might ME suggest anything from Janelle Monáe's new [album](#)?)

GOP California Rep. [Ken Calvert](#), who oversees EPA funding atop a House Appropriations subcommittee, also responded to the notion EPA is poised to challenge his state's waiver late Friday: "Like many Californians from across the political spectrum, I support our state's long-standing waiver and I have shared my views with Administrator Pruitt on many occasions," he said in a statement to ME. "I believe there needs to be more conversations between EPA and California officials to address any concerns with the California waiver and discuss how to find balance for all stakeholders. I plan on doing my part in the coming days and weeks to facilitate that discussion." Calvert asked Pruitt about this very issue last Thursday — when the EPA chief mentioned no plans to go after the waiver at that point.

IN SOLIDARITY: A host of Senate Democrats, lead by Sen. [Ed Markey](#), piled on their support for current emissions standards and pledged to defend them against any effort by the Trump administration to undo them. The senators wrote Friday to the governors of 13 states and the District of Columbia that have enforced stricter standards following California's waiver under the Clean Air Act. "We stand in solidarity with the states and D.C. that have adopted California's

standards, and will oppose any unprecedented attack on the California waiver or on its standards," they write. Read the letter [here](#).

FUELS UNITED WILL NEVER BE DEFEATED: Will Gang Grain and the oil industry link arms against a common foe? The Fuels Institute and an automakers group made presentations Friday to a broad swath of ethanol and oil interests, as well as staff for Sens. [Chuck Grassley](#), [Jim Inhofe](#), [Mitch McConnell](#), [John Cornyn](#), [Joni Ernst](#) and [Deb Fischer](#) and representatives from the American Petroleum Institute and the Renewable Fuels Association, according to a Republican congressional aide. The meeting was organized by Cornyn, and focused on the possibility of setting a national octane standard to 95, well above than the typical unleaded fuel of 87 or 88 octane.

As ME followers are keenly aware , these groups have been battling over the Renewable Fuel Standard for years, but this meeting was not directly about that program. Instead it focused on octane as a possible common ground: Automakers are looking at high compression engines that burn high octane fuels as the best way to meet higher mileage standards. Ethanol producers believe they have the best source of octane on the market (though they want to raise octane levels even higher than 95). "The common threat — EVs — was identified and all the stakeholders are individually assessing what the areas of compromise are among them to address it," an oil industry source who attended the meeting told ME. "I think it fair to say that the refiners and autos were quicker to see this than the ethanol folks, but the latter now get it and seem to be genuinely interested in talking a national octane standard. This by itself is some progress."

How about a bill? A different Republican aide [told](#) Pro's Anthony Adragna and Eric Wolff on Friday that there was talk at the meeting of pushing a bill this Congress. John Eichberger, executive director of the nonprofit Fuels Institute, said his group does not do advocacy and did not push for any legislation. He told ME he presented some early data from a research project whose results will be out in June. "What is absolutely clear is it will take many years before electric vehicles become a substantial part of the transportation system, and in that time frame improving the efficiency of internal combustion engines is in the best interest of consumers," he told ME in an email.

HOW PRUITT'S TESTIMONY PLAYED OUT INSIDE EPA: To hear EPA officials tell it, Pruitt's remarks during two hearings last week did the administrator no favors inside the agency he leads. EPA officials and others close to the agency told POLITICO's Emily Holden agency staff is in "despair" after Pruitt's performance, where he blamed his aides for installing a \$43,000 privacy booth in his office and for approving more than \$100,000 in first-class flights that he took last year, among other things.

A handful of officials, however , told Emily that Pruitt's refusal to apologize for the controversies may have pleased President Donald Trump. But others said his strategy was appalling and left many feeling thrown under the bus. "I think his credibility is damaged, and whether or not he gets fired by a tweet isn't going to diminish the fact that his credibility has been seriously damaged by all of this," one person close to the administration said. "It shows a real lack of leadership that he did not defend, or blame, his staff. These are the people that he's

asking for loyalty from. These are the people that are defending him. He's not returning the favor. That's not leadership." Read it [here](#).

— **In case you missed it**, EPA Inspector General Arthur Elkins Jr. said Friday he will open an ethics review into Pruitt's \$50-a-night condo rental and also look into alleged retaliation against career and political officials who reportedly questioned Pruitt's activities. That means the agency's IG is probing at least six different Pruitt-related issues. More [here](#).

GOWDY TALKS PRUITT INVESTIGATION: House Oversight Chairman [Trey Gowdy](#) reiterated on Sunday's "Face the Nation" that he had received requested documents from EPA in his [expanded probe](#) into the embattled EPA chief's activities. "We are scheduling witness interviews," he said. "The natural chronology of investigations to me is gather the documents, schedule the witness interviews and then draw your conclusions at the end."

Asked about a timeline on the investigation, Gowdy said things weren't moving as quickly as he liked, and noted they had "a little bit of hiccup" in scheduling the witness interviews. But he said: "We've reached a meeting of the minds that we're going to interview those witnesses and we got permission Friday to start scheduling those."

PJM READY TO GET RESILIENT: PJM Interconnection, the grid operator at the center of the debate over coal and nuclear power plants, plans to release a fuel security initiative later this morning. PJM opposes efforts by the Department of Energy to intervene in markets on behalf of struggling coal and nuclear plants, but both it and FERC agree that there is work to be done to improve grid resilience in the face of more frequent and more violent weather events, hacking and other threats.

MAIL CALL! Twenty lawmakers signed onto an effort Friday to ensure the National Park Service sets fair franchise fees within its parks. In a letter to Interior Secretary Ryan Zinke and NPS' Paul Daniel Smith, lawmakers request the two consider revising the prospectus for new contracts to service-providing entities, including outfitters and guides in the Grand Canyon National Park. Read the [letter](#).

IT'S A WATER WORLD: A host of energy officials will address the 2018 [Waterpower Week in Washington](#) that kicks off today. Mark Menezes, undersecretary of the Energy Department, will deliver remarks today during a plenary session on America's energy infrastructure. FERC Chairman Kevin McIntyre and Thomas Smith, chief of operations and regulatory division for the U.S. Army Corps of Engineers, will appear Tuesday during their own sessions. The annual conference is tied to three co-located conferences: the National Hydropower Association conference, the International Marine Renewable Energy Conference and the Marine Energy Technology Symposium.

FLORIDA REACTS TO DOI PLAN: The Interior Department's Friday [announcement](#) that it plans to roll back Obama-era offshore oil rig safety rules enacted after BP's 2010 oil spill drew swift bipartisan condemnation from Florida lawmakers — including Republican Gov. Rick Scott, Pro's Ben Lefebvre reports. "Lifting what the Interior Department calls burdensome regulations for oil companies is hardly worth the risk of destroying Florida's economy and

environment," Republican Florida Rep. [Vern Buchanan](#) said in a press release. Read more from Ben [here](#).

FROM RUSSIA WITH REQUEST: En+, a Russian energy firm sanctioned by the Treasury Department, has asked the administration to be exempted from sanctions if its primary owner sells a portion of his stake in the firm, Pro's Colin Wilhelm reports. The company's primary owner is Oleg Deripaska, a Russian oligarch, ally of Vladimir Putin and the target of the U.S. sanctions. En + wants Deripaska to sell enough of the company to no longer own a majority. The company formally made the request to Treasury on Thursday. Read [more](#).

WHITE HOUSE WALKS BACK CUTS: The Trump administration seems to be downsizing its plan to reduce federal spending and could request no more than \$25 billion in cuts, GOP Rep. [Tom Cole](#) said Friday. Cole, a top appropriator, said that White House budget director Mick Mulvaney told him that the presidential rescissions package wouldn't exceed \$25 billion, and could possibly be less, POLITICO's Kaitlyn Burton and Sarah Ferris [report](#).

MOVER, SHAKER: Today is Luke Popovich's last day at the National Mining Association. Popovich, a spokesman who has been with NMA since 2003, is retiring.

QUICK HITS

- Pruitt aide approved to work for GOP firm, Florida lawmaker, [E&E News](#).
- U.S. won't restore grizzly bear protections near Yellowstone National Park, [Associated Press](#).
- Coal extracted a steep price, now gas is taking West Virginia down same path, [Charleston Gazette-Mail and ProPublica](#).
- Saudi Aramco shakes up board, adds first female director, [The Wall Street Journal](#).
- Proposed shake-up at National Park Service could make senior leaders hit the road, [The Washington Post](#).

HAPPENING THIS WEEK

MONDAY

- 7:30 a.m. — [Offshore Technology Conference](#) begins, Houston
- 8:00 a.m. — [Waterpower Week in Washington](#) conference begins, 1001 16th Street, NW
- 8:30 a.m. — Michigan Energy Innovation Business Council [annual meeting](#), Lansing, Mich.
- 8:30 a.m. — The World Bank embargoed [conference call briefing](#) to discuss "Tracking SDG7: The Energy Progress Report."

12:00 p.m. — The University of Maryland's School of Public Policy discussion on "Dispatches from the Frontline: Climate Change and its Hurricanes from Hell," College Park, Md.

1:00 p.m. — NASA briefing on its launch of the Gravity Recovery and Climate Experiment Follow-On, 300 E Street SW

5:00 p.m. — Columbia Center for Global Energy discussion on "Where Next on Climate? Conservative Prescriptions on Climate Change," New York City

TUESDAY

8:45 a.m. — GreenTechMedia holds Solar Summit, San Diego

10:00 a.m. — CSIS Energy & National Security Program discussion on carbon pricing, 1616 Rhode Island Ave NW

WEDNESDAY

9:00 a.m. — Great Plains Institute & Nicholas Institute for Environmental Policy Solutions workshop on "Energy and Environmental Developments in the PJM Region," 1000 H Street

1:00 p.m. — The National Academy of Science's Committee on the Disposal of Surplus Plutonium in the Waste isolation Pilot Plant meeting on the Energy Department's plans to dispose of surplus plutonium, 500 Fifth Street NW

10:00 a.m. — The Atlantic Council discussion on Russia's energy strategy, 1030 15th Street NW

THURSDAY

2:00 p.m. — Middle East Institute panel discussion on "Oil in Iraq: Pathways to Enabling Better Governance," 1319 18th Street NW

CORRECTION: The April 27 edition of Morning Energy misspelled E&E News' Scott Waldman's name. It also misstated Rep. Marcy Kaptur's title. She is a Democratic member of the House Appropriations Interior-Environment Subcommittee.

THAT'S ALL FOR ME!

To view online:

<https://www.politicopro.com/newsletters/morning-energy/2018/04/coal-ash-ponds-in-the-crosshairs-196271>

Stories from POLITICO Pro

Court victories put coal ash ponds in the crosshairs [Back](#)

By Annie Snider | 04/30/2018 05:02 AM EDT

Environmentalists are scoring major legal wins in their fight to force utilities to clean up leaking coal ash ponds, even as the Trump administration works to unwind a 2015 regulation meant to control the pollution.

The recent courtroom victories could force utilities to spend billions of dollars to excavate and move toxic materials leaching through groundwater to the major rivers and lakes protected by the Clean Water Act — and the issue could ultimately end up in front of the Supreme Court.

Green groups, led by the Southern Environmental Law Center, have begun suing utilities under the Clean Water Act, arguing that unlined waste ponds leaking ash that contains arsenic, mercury and lead into groundwater that ultimately carries the pollution to downstream rivers and lakes is a violation of the landmark 1972 water law.

The cases have upended conventional water pollution wisdom, since groundwater pollution is regulated by the states and the Clean Water Act largely regulates point sources like factories and wastewater treatment plants that discharge pollution directly into surface waters. But environmentalists have successfully argued that any pollution coming from a point source — in this case a coal ash pond — that eventually reaches a federally protected water is a violation of the law, regardless of the path it takes to get there. The approach is called the conduit theory.

"We haven't viewed any of our Clean Water Act claims to be unusual or novel. We consider them to be enforcing just the central provisions of the law," said Frank Holleman, who has led a number of such lawsuits for the Southern Environmental Law Center. Any other reading, he said, would "blow a huge hole in the coverage of the Clean Water Act."

Courts have agreed in two major appellate cases. Although the pollution at issue in those suits wasn't from coal ash ponds, the decisions are being closely watched by the utility industry.

In February, the U.S. Court of Appeals for the 9th Circuit ruled that wastewater pollution traveling from a county-operated underground injection well in Hawaii to the Pacific Ocean broke the law. To find otherwise, the three-judge panel wrote, "would make a mockery of the [Clean Water Act]'s prohibitions," since all a polluter would need to do is move its pipe just outside a major waterway in order to avoid the law.

And this month a panel in the 4th Circuit went further, ruling that gasoline spilled from a Kinder Morgan Energy Partners pipeline in South Carolina that traveled through groundwater to reach nearby streams was a violation of the Clean Water Act, even though the spill happened on land, not water, and the pipeline itself was repaired.

In a twist of irony, both courts pointed to a 2006 opinion from the late conservative Supreme Court Justice Antonin Scalia in ruling that pollution didn't have to be discharged directly into a surface waterway in order to be covered by the Clean Water Act.

"The Act does not forbid the 'addition of any pollutant *directly* to navigable waters from any

point source,' but rather the 'addition of any pollutant *to* navigable waters,'" Scalia wrote in his plurality opinion in *Rapanos v. United States*.

"Thus, from the time of the CWA's enactment, lower courts have held that the discharge into intermittent channels of any pollutant *that naturally washes downstream* likely violates §1311(a), even if the pollutants discharged from a point source do not emit 'directly into' covered waters, but pass 'through conveyances' in between," Scalia continued in the opinion that actually argued for a vastly narrower scope to the Clean Water Act. Scalia's opinion has been trumpeted by the Trump administration as it seeks to rewrite the Waters of the U.S. rule.

The two appellate court decisions have raised alarms for industry, and caught the attention of Republicans on Capitol Hill.

"Under the misguided theory, everyday activities including farming, ranching, or having a septic tank in your backyard could require a federal discharge permit," Sen. John Barrasso (R-Wyo.), chairman of the Senate Environment and Public Works Committee, said at a hearing this month.

But the biggest implications are for utilities that are still responsible for primitive coal ash ponds where the toxic materials were sometimes buried directly in the water table. A ProPublica analysis of utilities' disclosures required under the Obama administration's 2015 coal ash rule found that one-third of the coal-fired power plants across the country had detected "statistically significant" levels of contaminants in groundwater near their facilities.

It is not clear how much of that pollution is making its way to a surface water that is protected by the Clean Water Act, but it could be common since many coal ash sites were built on the banks of rivers and lakes. Holleman said his group found such connections at every site it began investigating.

"This is a self-inflicted wound, a risk created voluntarily by the utilities for their own convenience," Holleman said.

In one particularly stark instance, the Tennessee Valley Authority built coal ash ponds for its plant near Gallatin, Tenn., atop a stream dubbed Sinking Creek, because it disappeared into the ground. TVA's own documents show that the company knew the sites sat in a karst landscape of highly porous limestone, which experts described as "colander-like" because of all the passages through which water could move. Between 1970 and 1978, more than 25 billion gallons of sluice water flowed directly from the ponds, through the karst aquifer, into the Cumberland River.

Last April, a federal judge agreed with the Southern Environmental Law Center that the ponds were continuing to leak coal ash into the river, and described the situation as so risky that he ordered TVA to excavate the coal ash waste and move it to a new, more secure impoundment.

"While the burden of closure by removal may be great, it is the only adequate resolution to an untenable situation that has gone on for far too long," Chief Judge Waverly Crenshaw, Jr., of the U.S. District Court for the Middle District of Tennessee wrote in a detailed opinion.

TVA, which has appealed the ruling, told the court it could cost as much as \$2 billion dollars to remove and relocate the waste. It had argued that it should be allowed to leave the ash where it is and cap the impoundment — an option that Crenshaw wrote "would amount to nothing less than rolling the dice and hoping that reality bears out TVA's understandably self-interested contention that closure in place will be adequate."

Even the Obama administration's 2015 coal ash rule, which the Trump administration is now working to roll back, wouldn't have required such a significant cleanup in most cases.

That rule was written in the wake of two catastrophic failures of coal ash ponds, one in Kingston, Tenn., where a collapsed dike wall sent 5.4 million cubic yards of sludge into the Emory and Clinch rivers, and another at Duke Energy's facility near Eden, N.C., where as much as 39,000 tons of coal ash spilled into the Dan River. The regulation set new requirements for structural safety, groundwater monitoring and siting, and laid out how ponds could be closed.

The rule drew complaints from industry groups who thought it went too far, as well as environmentalists who said it didn't provide adequate enforcement and should have required utilities to dig coal ash out of risky sites.

The Trump administration, which has vowed to end the "war on coal" and has begun easing a spate of air and water regulations opposed by the coal industry, accepted an industry request that it reconsider the coal ash rule. In March, EPA Administrator Scott Pruitt proposed an initial round of changes that would give more flexibility to states to set different groundwater protection standards and lengthen deadlines for facilities to show that they've fixed a problem.

Greens have fiercely fought those changes, but the Gallatin ruling shows that pursuing claims under the Clean Water Act may still allow them to force utilities to take aggressive cleanup measures.

"If you can prevail on that theory in court, it can get you exactly the same kind of remedy in terms of cleaning up the toxic mess that you would otherwise be looking for from a strong EPA regulation," said Thomas Cmar, an Earthjustice attorney who litigates over coal ash.

Cmar described the legal approach as a "backstop," but emphasized that it should not supplant the federal rule, since it takes significant resources to prove the cases and years for them to work their way through the courts.

But the utility industry says that environmental groups are using this Clean Water Act approach to sidestep existing federal and state laws governing coal ash.

"If court rulings were allowed to take the place of the technical expertise and the technical processes that are set up and established to protect the environment and protect people when you're closing coal ash basins, what you would end up with is the most extreme, most expensive and often unnecessary closure option that scientists say can do more harm for the environment than good," said Paige Sheehan, a spokeswoman for Duke Energy, which has faced such litigation.

Jim Roewer, executive director of the Utility Solid Waste Activities Group, an industry lobbying group, said greens are trying to have it both ways. He argued that the coal ash rule was meant to be comprehensive, and that requiring coal ash to also be regulated under the Clean Water Act as well would end up undercutting the 2015 regulation.

"If the courts were to take that approach you're fundamentally gutting the [coal ash] rule," he said.

To be sure, environmentalists have had setbacks in the courts. A federal judge in Kentucky late last year dismissed a complaint from the Sierra Club and local groups bringing Clean Water Act claims against Kentucky Utilities Company. And although a federal judge in Virginia sided with environmentalists last March who claimed that Dominion Energy Company had violated the federal water law with leaks of arsenic from coal ash pits at its decommissioned Chesapeake Energy Center plants into the Elizabeth River, he called environmentalists' request that the ponds be excavated "draconian."

Both of those cases are now on appeal. For years, these lawsuits received little notice outside of their local communities, but in recent months a number of powerful industry groups, including the National Mining Association, the Edison Electric Institute, and the American Petroleum Institute have jumped into the litigation.

Legal experts say the issue may eventually end up before the Supreme Court — and that industry may be pursuing that.

Paul Clement, the former solicitor general who has argued more cases before the high court than any other attorney, began representing Kentucky Utilities Company in February. That appeal is being heard in the 6th Circuit, the same venue where the TVA decision is also being appealed, and the court has agreed to try and coordinate the two cases. A decision in favor of the utilities there would create a split among the circuit courts, making it more likely to land before the Supreme Court.

Meanwhile, Pruitt's EPA is considering whether it should "review and potentially revise its previous statements" on when and how pollution traveling through groundwater to surface waterways is regulated under the Clean Water Act. The agency has in the past said these discharges may require a permit, but that was related to other topics, such as its regulation governing water pollution from concentrated animal feeding operations, rather than as a definitive statement directed specifically at the question of all discharges through groundwater.

The utility industry has welcomed EPA's weigh-in. Its members have had a great deal of access to the EPA administrator, according to calendars released under the Freedom of Information Act. Among the private meetings that utilities executives have held with Pruitt are a huddle last March with Duke Energy CEO Lynn Good to discuss the company's "policy priorities," and had a call with her in May to discuss coal ash, shortly before he agreed to reconsider the coal ash rule.

To view online [click here](#).

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Source: EPA draft would halt auto standards at 2021 levels, block California authority

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By Alex Guillén | 04/27/2018 06:28 PM EDT

A draft proposal from EPA would freeze auto emissions standards after model year 2021 and seek to block California's ability to enact its own more stringent regulations, according to a source familiar with the draft.

The text of the draft is still reportedly in flux, but if ultimately finalized, it would erase half a decade's worth of the Obama administration's much-touted emissions savings, handing a major win to the oil industry. It would also set up a nasty legal fight with California that many legal experts believe the state could win.

The [Los Angeles Times](#) first reported on the draft plan today.

EPA Administrator Scott Pruitt on Thursday [told](#) a House Energy and Commerce subcommittee that he did "not at present" have any plans to try to revoke California's Clean Air Act waiver to enforce more stringent standards.

"It's important that we work together to achieve, as was indicated earlier, a national standard," Pruitt added.

Automakers successfully lobbied the Trump administration to revisit the 2022-2025 standards — although most indicated they simply wanted more flexibility to reach the ultimate emissions goals in 2025. They had complained it would be difficult to meet the Obama administration's goals that would have ultimately lifted the average fuel economy target for the nation's fleet of cars and light trucks to 55 miles per gallon by 2025.

Industry trade groups and individual automakers have also cautioned that a single national standard is preferable to a regulatory patchwork of rules.

WHAT'S NEXT: EPA reportedly will send the proposal to the White House for review in the near future. The agency is working alongside the National Highway Traffic Safety Administration, which is writing its own separate but related fuel economy rules for 2022-2025 vehicles.

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Pruitt: EPA not going after California's waiver 'at present' [Back](#)

By Anthony Adragna | 04/26/2018 12:04 PM EDT

EPA Administrator Scott Pruitt said today his agency is "not at present" attempting to undo California's special Clean Air Act waiver allowing the state to set stricter emissions levels for vehicles.

"It's important that we work together to achieve, as was indicated earlier, a national standard," Pruitt said at a House Energy and Commerce subcommittee hearing this morning. "We are working very diligently and diplomatically with California to find answers on this issue."

California officials have warned they would diligently challenge any effort by the Trump administration to go after the waiver.

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Source: Biofuels, oil industries meet to consider alliance against electric vehicles [Back](#)

By Anthony Adragna and Eric Wolff | 04/27/2018 04:38 PM EDT

Ethanol producers, oil refiners and their congressional backers met today in Washington to consider joining forces to stem the growth of electric vehicles, a GOP congressional aide told POLITICO.

The message of the meeting, the aide said, was that "the war between gasoline and ethanol needs to end and they need to start working together."

A presentation from the Fuels Institute proposed a national octane standard of 95, up from the current regular unleaded octane of 87, the source said, which would be put into legislation during the current Congress, possibly as part of a Renewable Fuel Standard overhaul led by Texas Sen. [John Cornyn](#) (R). The Fuels Institute did not respond to a request for comment.

Ethanol producers and refiners have been at war over the Renewable Fuel Standard for almost as long as the program has existed. But electric vehicle sales and infrastructure have been expanding rapidly in recent years.

Renewable Fuels Association CEO Bob Dinneen made waves in February 2017 when he [suggested](#) liquid fuels makers should join forces against electric vehicles. Dinneen did not respond to a request for comment on the meeting.

To view online [click here](#).

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EPA staff in 'despair' after Pruitt blame game [Back](#)

By Emily Holden | 04/27/2018 05:33 PM EDT

Scott Pruitt may have survived his testimony on Capitol Hill, but he's coming back to a further enraged and demoralized Environmental Protection Agency staff.

Several current and former EPA officials and other people close to the agency said Pruitt did himself no favors with his congressional testimony Thursday, in which he blamed his aides for installing a \$43,000 privacy booth in his office and approving more than \$100,000 in first-class flights that he took last year. Pruitt also denied knowing key details about raises that his top staff received last year. And he declined to defend his former policy chief against Democrats' accusations that she had failed to show up for work for three months, even though she and Pruitt had been [photographed](#) attending the same meeting during the period in question.

In conversations with 11 people who know the atmosphere inside EPA, including Republican political appointees, a handful said his refusal to grovel may have pleased President Donald Trump. But others said his strategy was appalling to the current and former staffers who found themselves thrown under the bus.

"I think his credibility is damaged, and whether or not he gets fired by a tweet isn't going to diminish the fact that his credibility has been seriously damaged by all of this," one person close to the administration told POLITICO. "It shows a real lack of leadership that he did not defend, or blame, his staff. These are the people that he's asking for loyalty from. These are the people that are defending him. He's not returning the favor. That's not leadership."

A current EPA official said Friday that employees are veering between "despair" and "embarrassment," and Pruitt's televised performance did not help.

"I will tell you, it did not go unnoticed from people who watched the hearing that he did not take responsibility on the policy pieces" of the testimony, the official said. "It was not lost on us on the stuff we know about that he used very careful language, he was parsing his words, that some might say he did not speak the whole truth."

One former EPA official said even political aides are "sick of Pruitt constantly putting himself first," and "putting himself before the president's agenda."

"He's rarely been interested in selling regulatory reform as improving Americans' lives, and is far more interested in saving his political career," the former official said.

But Trump has shown no signs of abandoning his EPA chief, who has won the strong backing of conservative groups with his efforts to erase Obama-era environmental regulations. So far, that

has outweighed the anger of White House staff members and exasperation of key Republican lawmakers at Pruitt's series of controversies over luxe travel, extensive security, a below-market D.C. condo rental from a lobbyist and history of questionable real estate deals in his native Oklahoma.

A senior EPA official said Pruitt's strategy of fighting the allegations was designed to appeal to Trump, who disdains members of his team who appear weak on television.

"They like fighters no matter what," the official said. "No matter what, fight. That's what we've been conditioned to."

The official predicted that the White House takeaway from the hours of hearings would be that Republican lawmakers stood with Pruitt, while Democrats squandered their opportunity by spending too much time criticizing Pruitt's deregulatory agenda — which Trump supports — rather than hitting him for the ethics issues.

"Any audience would say the White House saw a Republican bench entirely supportive of him," the EPA source said. "On the Democrat side, the White House also saw Democrats who used half their time to criticize policies he's doing that the White House likes. If they wanted to land punches, why do you ask about these policies? That's not going to do it for you."

Pruitt ally Sen. Jim Inhofe (R-Okla.) took that message from Thursday's hearings, despite saying earlier in the week that he was troubled by some recent allegations about the EPA leader's past dealings in Oklahoma. "After a full day of mudslinging and partisan questioning from the Democratic members of the committees, it is clear that the only fault they could find with Scott Pruitt is that he's successfully ending the EPA's history of overreach and over-regulation," Inhofe said in a statement Friday.

Still, the senior EPA official said, Pruitt's relatively good day in Congress could be "washed away" if his inconsistencies about what he knew about the raises generates a steady narrative that he lied to the White House, as at least one CNN pundit alleged.

And until Trump weighs in, the tension around Pruitt at EPA will remain high.

"There needs to be a halt to this because it's exhausting," the same official said.

Pruitt also still faces multiple investigations inside the executive branch and on Capitol Hill. On Friday, for example, the agency was due to deliver a "batch of documents" to the staff of House Oversight Chairman Trey Gowdy (R-S.C.), who is leading one of the probes.

Departed EPA aides who have said Pruitt didn't tolerate internal criticism of his spending and secrecy say current staffers still fear they'll be similarly swept up in the scandals — but won't be able to find jobs if they quit now and gain a reputation for disloyalty.

"They're trying to do the best they can in a toxic environment," one former staffer said. "You cannot express any idea that might be misconstrued as a political attack on Pruitt or any policy

issues, so people just do what they're told. They're professional. ... They don't want to get caught in an undertow."

Another former EPA official has been getting phone calls from staffers who are frustrated by the controversies but keeping their heads down.

"Everyone in the building wants to come out and say something ... but as soon as they say something, they're out of a job," that person said.

Not everyone in the agency was upset that Pruitt pinned many of his controversies on his staff Thursday, after giving an opening statement in the House in which he confessed that his first year on the job had been "a learning process."

"When he was putting it on staff, that's the reality of it," one current EPA political appointee said. "Sure, he's the administrator; sure, he's the head of the agency. That doesn't mean he was aware of the \$40,000. He asked for a secure phone line and the next thing you know it turned into a secure phone booth. ... Overall, I think his staff continue to stand beside him today and will continue to do that."

In his testimony, Pruitt said he had never asked for a \$43,000 secure phone booth — only "access to secure communication" — or biometric locks for his office, and he said his security staffers made the call for him to fly first-class to avoid possible threats from other passengers. He said he had authorized his chief of staff, Ryan Jackson, to give raises to his top staff but had no idea that they were circumventing disapproval from the White House. And he chose not to defend his former policy chief against allegations from Democratic lawmakers that she was not in the office for months, even though an EPA spokesman had dismissed the accusations as "baseless and absurd."

A second political appointee said Pruitt didn't break any new ground with his defenses and that controversies dogging him had been "all blown out of context."

The person called Pruitt a "disruptor" and said "folks don't like that aggressive style."

"Administrator Pruitt speaks for a certain aspect of the Trump administration conservative movement," the appointee said.

Eric Wolff and Anthony Adragna contributed to this report.

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EPA inspector general opens reviews into Pruitt's condo, allegations of retaliation [Back](#)

By Alex Guillén | 04/27/2018 04:45 PM EDT

EPA Inspector General Arthur Elkins Jr. said he will open an ethics review of Administrator Scott Pruitt's \$50-a-night condo rental and also look into alleged retaliation against career and political officials who reportedly pushed back on Pruitt's spending and other activities.

The new reviews are in response to congressional requests and urging from the Office of Government Ethics. OGE earlier this month asked EPA ethics officials to more closely scrutinize Pruitt's condo rental from the wife of a lobbyist with business before EPA, and the ethics officials referred the matter to the inspector general.

Elkins revealed the new reviews in [letters](#) this week to Reps. [Don Beyer](#) (D-Va.) and [Ted Lieu](#) (D-Calif.). Elkins noted that he is also reviewing Pruitt's travel expenses, security spending, hiring and raise approvals and allegations that a Pruitt aide was directed to search for housing on official time.

Pruitt denied several of those allegations and otherwise defended his actions during House hearings on Thursday, including the [allegations of retaliation](#). Pruitt also pinned controversial raises to two close aides on his chief of staff, and said he was "not aware" of one aide ever using government time to search for his housing.

"Some of these matters will be reviewed as part of previously announced and still ongoing OIG reviews. Some will be the impetus for new reviews. We will release results of each of these separate reviews as we complete them," Elkins wrote.

WHAT'S NEXT: Elkins did not estimate when the probes will conclude, but the process is likely to take months.

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EPA delivers first batch of travel documents to Gowdy's panel [Back](#)

By Anthony Adragna | 04/27/2018 11:48 AM EDT

EPA has delivered copies of travel vouchers of the EPA employees who took overseas trips with Administrator Scott Pruitt to the House Oversight Committee, which expects a second production of documents later today, according to a committee spokeswoman.

EPA is expected to give the panel a "much larger batch of documents" responding to Chairman [Trey Gowdy's](#) (R-S.C.) April 13 [request](#) later today, spokeswoman Amanda Gonzalez told POLITICO.

Not included in the agency's initial response were travel records for Pruitt's security detail that came along on the trips to Italy and Morocco, though EPA "said they will allow Committee staff

to review those documents at EPA, as they are security sensitive," according to Gonzalez.

A senior agency official told POLITICO on Thursday the agency's response to Gowdy's request would show the allegations made by former senior EPA aide Kevin Chmielewski contained "exaggerations" that might mitigate the need for transcribed interviews with four senior EPA aides. Gowdy had requested those aides sit for interviews in his April 13 letter.

Gowdy has been the Republican most aggressively looking into a host of allegations of lavish spending and unethical behavior dogging Pruitt. He requested the documents be provided and interviews scheduled no later than today.

In the most recent letter, Gowdy demanded records related to the decision to increase Pruitt's security to round-the-clock protection, contracts to sweep Pruitt's office for electronic surveillance, his trips to Italy and Morocco and the hiring of an Italian security firm, among others. He's also been investigating Pruitt's prior first-class travel arrangements and \$50-a-night Capitol Hill condo agreement with a Washington lobbyist couple.

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Gowdy expands probe into EPA's Pruitt [Back](#)

By Anthony Adragna and Alex Guillén | 04/13/2018 05:45 PM EDT

House Oversight Chairman Trey Gowdy (R-S.C.) said Friday he's expanding his probe into the alleged ethical and spending abuses by EPA Administrator Scott Pruitt one day after his staff met for several hours with a former EPA aide who was pushed out of the agency.

Gowdy's latest letter is a further sign of the deepening bipartisan scrutiny facing President Donald Trump's environmental chief, whose critics accuse him of excessive spending on travel, vehicles, staff raises and luxe security features such as a \$43,000 soundproof phone booth.

The committee's new request focuses on the decision to increase Pruitt's security to round-the-clock protection, contracts to sweep Pruitt's office for electronic surveillance, his trips to Italy and Morocco, the hiring of an Italian security firm, and travel by Pruitt's security chief, Pasquale "Nino" Perrotta.

The letter comes after the committee interviewed ousted EPA employee and former Trump campaign aide Kevin Chmielewski, who is being treated as a whistleblower. A committee spokeswoman said the information he provided is consistent with allegations laid out in a letter released Thursday by House and Senate Democrats who had also spoken to him.

The committee also asked for sit-down interviews with four senior EPA officials: Perrotta; Ryan Jackson, Pruitt's chief of staff; Millan Hupp, a scheduling and advance aide; and Sarah

Greenwalt, a senior counsel to Pruitt. Gowdy requested the agency schedule those interviews and provide a litany of documents by April 27. Gowdy also requested an on-the-record interview with Chmielewski, who spoke more informally with lawmakers this week.

Hupp and Greenwalt, both of whom have worked for Pruitt since he was Oklahoma's attorney general, are the two staffers who received raises via a special authority granted Pruitt under the Safe Drinking Water Act. Pruitt told Fox News last week he was not aware of the raises, although Chmielewski told Democrats this week that the raises were "100 percent Pruitt himself."

EPA spokesman Jahan Wilcox said the agency had "responded to Chairman Gowdy's inquiries and we will continue to work with him."

EPA's inspector general is also investigating complaints about Pruitt's travel spending and other practices. The inspector general's office said it will release an interim report Monday afternoon on one of its probes, which involves whether Pruitt misused special hiring authority provided by the Safe Drinking Water Act to bring some key aides into the agency.

It's unclear whether the IG has expanded that probe to include a recent controversy around EPA's use of the same water law to grant raises to the two Pruitt aides despite the White House's disapproval.

Chmielewski told Democrats this week that EPA fired him after he refused to sign off retroactively on first-class travel for one of Pruitt's closest aides, Samantha Dravis. Gowdy's letter does not request an interview with Dravis, who has announced her intent to leave the agency.

During congressional interviews earlier this week, Chmielewski outlined a detailed litany of seemingly unethical behavior against Pruitt. He said the EPA chief insisted on staying at expensive hotels while traveling even if they exceeded permissible federal spending limits, directed staff to book him on Delta Air Lines so he could accrue frequent flier miles, made a close aide "act as a personal real estate representative" and then retaliated against staff who questioned his behavior, among other allegations.

EPA has previously dismissed Chmielewski as one of a "group of disgruntled employees who have either been dismissed or reassigned." The agency did not immediately comment on the latest letter.

Gowdy's probe into Pruitt's activities has been in contrast to his GOP colleagues, who have adopted a "wait and see" approach toward the EPA chief's ethical woes. Lawmakers this week expressed discomfort with Pruitt's spending when asked and vowed to press him about it at future hearings. But they've stopped short of demanding documents or issuing subpoenas to investigate the alleged ethics lapses.

Pruitt last appeared before Congress in late January before the Senate Environment and Public Works Committee. Unlike his fellow Cabinet members, he has yet to appear before any

congressional committees to defend his fiscal 2019 budget request. And he's not scheduled to return to Capitol Hill for another two weeks, when he is scheduled to attend an April 26 session with the House Energy and Commerce Committee.

"The Republicans are absolving themselves of all oversight responsibility even in the face of the most egregious conduct. They may as well stop calling committees oversight," Melanie Sloan, senior adviser at American Oversight, told POLITICO. "What would it take? Would he literally have to kill somebody before they say it's a problem?"

GOP lawmakers were less patient with Obama EPA officials. Senate and House lawmakers questioned former Administrators Lisa Jackson and Gina McCarthy, as well as other senior brass, on issues ranging from the use of nonofficial email accounts, whether they used texting to avoid record-keeping requirements, whether they allowed a senior staffer to commit time fraud and why they hadn't fired employees who spent hours watching pornography at work more quickly.

EPW Chairman John Barrasso (R-Wyo.) has said he planned to await the results of a White House review of Pruitt's conduct and would not comment on multiple occasions this week on when the administrator would return to his committee.

"He was just here earlier this year and answered questions for 2½ hours, but I expect him to come back again," Barrasso told reporters.

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Interior to unveil offshore well-control rule changes [Back](#)

By Ben Lefebvre | 04/27/2018 11:18 AM EDT

The Interior Department will propose today revising offshore well-control rules that the Obama administration put in place after the 2010 BP Deepwater Horizon explosion, according to sources.

"The U.S. Department of Interior will be announcing revisions to a rule guiding oil and gas drilling and production operations on the Outer Continental Shelf in the afternoon," according to an invitation Interior sent to several groups earlier today.

A source familiar with the issue said the rule will be the well-control rule Interior's Bureau of Safety and Environmental Enforcement finalized in April 2016. This would be the second BSEE rule on offshore well safety that Interior plans to revise.

In December, the agency started the process to revise offshore oil and gas production safety systems. Interior has said it was reviewing the well-control rules in line with President Donald

Trump's [executive order](#) last year calling for increased offshore oil and gas production.

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Florida lawmakers rip Trump plan to ease offshore drilling rule [Back](#)

By Ben Lefebvre | 04/27/2018 04:26 PM EDT

The Trump administration plan to roll back the Obama era offshore oil rig safety rules enacted in the wake of BP's massive 2010 oil spill drew sharp criticism on Friday from Florida lawmakers, who said the still-unreleased revisions would threaten the state's coast.

Interior's announcement that it would ease the rules comes eight years after the Deepwater Horizon rig catastrophe in the Gulf of Mexico that occurred after faulty undersea equipment failed to stop a blowout. That well spewed oil into the sea for months, resulting in one of the worst energy disasters in U.S. history.

Interior's move drew near-instant criticism from Florida lawmakers, who are already on edge about the department's shifting statements on whether it will propose offshore drilling in federal waters off the state's coast.

"Lifting what the Interior Department calls burdensome regulations for oil companies is hardly worth the risk of destroying Florida's economy and environment," Republican Florida Rep. [Vern Buchanan](#) said in a press release.

Democratic Sen. [Bill Nelson](#), who is facing a reelection challenge from the state's Republican Gov. Rick Scott, also slammed the proposed rule revision.

"These rules were put in place to prevent another massive oil spill off our coasts," Nelson said in a statement. "We can't allow this new administration to take us backwards in time and, once again, expose Florida's beautiful beaches and tourism-based economy to such an unnecessary risk."

Scott also joined the chorus, saying in a statement that "[as] the Florida Department of Environmental Protection clearly stated in January, we are firmly against these proposed changes."

The Florida governor has gotten caught up in national [offshore drilling politics](#). He met Ryan Zinke at the Tallahassee airport in January when the Interior secretary declared Florida "off the table" for oil drilling, though Interior subsequently said the state [remains under consideration](#) in its drilling plan review.

Interior Assistant Secretary for Land and Minerals Management Kate MacGregor told reporters

the administration had gone over the rule's 340 provisions "with a scalpel" to change or remove only the regulations that were deemed too burdensome for industry.

In all, Interior will change or remove about a fifth of the provisions in the 2016 rule, Interior officials told reporters.

Interior's proposal would scrap the requirement that only government-approved third parties be allowed to verify the functionality of blowout preventers that can seal a well in the event of a pressure surge. Another revision would allow rig operators to test equipment less often, to prevent "wear and tear" on the equipment, MacGregor said.

Interior did not release the revision language publicly before its announcement, saying it would be published in the Federal Register next week to begin a 60-day public comment period. The changes would produce \$940 million over 10 years, officials said.

The proposal would also eliminate "redundant and unnecessary" reporting and remove some real-time well monitoring requirements, among other changes, according to a copy of the proposed revisions acquired by [The New York Times](#). An Interior spokesman said the document appeared to be authentic but warned it may have been a draft version.

The document points to the administration revising the safety regulations in a bid to increase oil and gas production.

"This proposed rule would fortify the Administration's position towards facilitating energy dominance leading to increased domestic oil and gas production, and reduce unnecessary burdens on stakeholders while maintaining or advancing the level of safety and environmental protection," Interior says in the proposed revision.

Industry applauded the changes, with the National Ocean Industries Association saying it and other industry groups had sought the changes.

"Safety and drilling experts from NOIA and other industry groups recommended changes to the existing rule that are supported by the latest technology, improve clarity, add certainty, increase efficiency and enhance offshore safety," NOIA President Randall Luthi said in a press release. "BSEE's proposed revisions to the [rule] do not, in any way, constitute a rollback in offshore safety."

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Russian energy company seeks relief from U.S. sanctions [Back](#)

By Colin Wilhelm | 04/27/2018 04:27 PM EDT

A Russian energy firm sanctioned by the U.S. Treasury Department has asked the Trump administration to be exempted from sanctions if its primary owner — the target of those sanctions — sells a portion of his stake in the firm.

En+ wants primary owner Oleg Deripaska, a Russian oligarch, to sell enough of the company to no longer own a majority.

The company formally made the request to Treasury on Thursday. En+ also asked for an extension until sanctions would take effect until Oct. 31 to give Deripaska more time to sell. The current deadline is May 7; without an extension and restructuring to avoid sanctions, the company risks being de-listed from the London Stock Exchange, according to its request.

Deripaska would also resign from the board as part of the company's efforts to avoid sanctions. The penalties target him and others tied to the Russian government for efforts to destabilize Western democracies, the invasion of Ukraine, and the support of alleged war crimes committed by the Syrian government during that country's civil war.

Deripaska is considered a close ally of Russian President Vladimir Putin.

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Trump administration may be scaling back spending cuts [Back](#)

By Kaitlyn Burton and Sarah Ferris | 04/27/2018 03:06 PM EDT

The Trump administration appears to be downsizing its plan to claw back federal spending and could request no more than \$25 billion in cuts, a top GOP appropriator said Friday.

Rep. Tom Cole (R-Okla.) said in a brief interview that White House budget director Mick Mulvaney told him that the presidential rescissions package wouldn't exceed \$25 billion, and could possibly be less.

"[Mulvaney] mentioned to a group of us that he thought the top would be at \$25 billion but it might not be that," said Cole, who oversees Labor-HHS-Education funding. He didn't provide any additional details.

That would be on the lower end of what had been anticipated by some. POLITICO reported earlier this month that the White House was eyeing a package of cuts between \$30 billion to \$60 billion, with at least some of that funding pulled from Congress' most recent spending deal.

The proposal is expected to be submitted to Congress next month, likely after lawmakers return May 7 from a week-long recess. Mulvaney, who is in charge of putting together the spending cut plan, has said he's hoping for a vote on the House floor before July.

The former House member from South Carolina has also suggested that the proposal could be the first of many to come from the Trump administration this year.

Trump's spending cancellations could receive a rocky reception even among Republicans.

Senate Majority Leader Mitch McConnell has declared that any attempt to take back funding from last year's omnibus will go nowhere in the Senate.

Spending chiefs in the House, including Chairman Rodney Frelinghuysen (R-N.J.), have also been resistant to the idea, which they say would jeopardize future spending deals.

House Majority Leader Kevin McCarthy, who has worked closely with Mulvaney on the package, said last week that the rescissions package wouldn't exclusively target the \$1.3 trillion omnibus. He said the White House was looking at any unspent funding from prior years, in the way that presidential rescissions have routinely used in the past.

A rescissions package with \$25 billion in cutbacks would be unprecedented for recent administrations: It would be the biggest ever sent to Congress by more than \$9 billion.

Former President Bill Clinton was the last president to propose rescissions, asking to slash \$128 million across three separate requests. The Reagan administration requested the most in history, a total of 602 separate cutbacks totaling \$43 billion over eight years.

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